

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-12-2007

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.18372 of 1999

1.Y.Nesaiyan
2.E.Murugan

... Petitioners.

Versus

1.The District Revenue Officer,
Nagercoil, Kanyakumari District.

2.The Inspector of Police,
CS CID, Kuzhithurai,
Kanyakumari District.

.. Respondents.

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the entire records relating to the proceedings of the 1st respondent in his proceedings No.F192155/98, dated 23.7.1999 and quash the same.

For petitioners : Ms.B.Ganthimathi

For respondents : Mr.V.Manoharan
Government Advocate

ORDER

Heard Ms.B.Ganthimathi, the learned counsel appearing for the petitioners and Mr.V.Manoharan, the learned Government Advocate appearing for the respondents.

2. It is submitted by the learned counsel appearing for the petitioners that the first petitioner is a licensed trader of paddy and rice, doing business in the name and style of Ambiga Stores. The second petitioner is the owner of the Tempo Van bearing Registration No.TN-72-Z 950. In the course of his business, the first petitioner had placed orders before the Guru Murugan SR Rice Mill at Ramakrishnapuram, Nanguneri Taluk, for the purchase of 101 bags of rice. Based on the orders placed by the

first petitioner, the said Guru Murugan SR Rice Mill had raised Bill No.1, dated 12.12.98, and the rice was loaded in the second petitioner's tempo van and taken to the first petitioner's place of business at Nagercoil. However, the second respondent had intercepted the vehicle and seized the tempo van and the 101 bags of rice, on the alleged suspicion that the tempo van had 24 bags of rice meant for the Public Distribution System. In spite of the fact that a valid bill and the other relevant documents were available with the driver of the tempo van at the time of the seizure, the first respondent had confiscated the 24 bags of rice and imposed a fine of Rs.2,000/- on the tempo van owner, by his proceedings No.F192155/98, dated 23.7.1999.

3. It is submitted by the learned counsel appearing on behalf of the respondents that as against the impugned order passed by the first respondent a statutory appeal is available to the petitioners, under Section 6-C of the Essential Commodities Act, 1955. Section 6-C of the Essential Commodities Act, 1955, reads as follows:

6-C.Appeal.- (1) Any person aggrieved by an order of confiscation under Section 6-A may, within one month from the date of the communication to him of such order, appeal to the State Government concerned and the State Government shall, after giving an opportunity to the appellant to be heard, pass such order as it may think fit, confirming, modifying or annulling the order appealed against.

(2) Where an order under Section 6-A is modified or annulled by the State Government, or where in a prosecution instituted for the contravention of the order in respect of which an order of confiscation has been made under Section 6-A, the person concerned is acquitted, and in either case it is not possible for any reason to return the essential commodity seized, such persons shall, except as provided by sub-section (3) of section 6-A, be paid the price therefor as if the essential commodity had been sold to the Government with reasonable interest calculated from the day of the seizure of the essential commodity and such price shall be determined -

(i) in the case of food grains, edible oilseeds or edible oils, in accordance with the provisions of sub-section (3-B) of section 3;

(ii) in the case of sugar, in accordance with the provisions of sub-section (3-C) of section 3; and

(iii) in the case of any other essential commodity, in accordance with the provisions of sub-section (3) of section 3.

4. However, the learned counsel appearing for the petitioners had submitted that at the time of the filing of the writ petition, the appellate authority had not been designated, as provided under the Act. Therefore, the petitioners have come before this Court, by way of filing the present writ petition, under Article 226 of the Constitution of India. It is also submitted that at present the District Court, Kanyakumari, has been designated as the appellate forum, under Section 6-C of the Essential Commodities Act, 1955, to hear and decide the appeals.

5. Considering the facts and circumstances of the case, the petitioners are granted liberty to file an appeal before the designated appellate authority, as provided under the law, within a period of four weeks from the date of receipt of a copy of this order. On such appeal being filed, the appellate authority is expected to dispose of the same, expeditiously.

The writ petition is disposed of with the above direction. No costs.

csH

Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The District Revenue Officer,
Nagercoil, Kanyakumari District.

2.The Inspector of Police,
CS CID, Kuzhithurai,
Kanyakumari District.

+1 cc to The Government Pleader Sr.No.71785.

+1 cc to Mr.C.Prakasam, Advocate Sr.No.71462.

KM(CO)
DCP/14.12

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